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State v. Maxim Appellant's Brief Dckt. 43887

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IN THE SUPREME COURT OF THE STATE OF IDAHO

STATE OF IDAHO,)	
)	NO. 43887
Plaintiff-Respondent,)	
)	JEROME COUNTY NO. CR 2010-6887
v.)	
)	
PATTY ANN MAXIM,)	APPELLANT'S BRIEF
)	
Defendant-Appellant.)	
_____)	

STATEMENT OF THE CASE

Nature of the Case

Patty Maxim appeals from the district court's order relinquishing jurisdiction and asserts that the court abused its discretion by relinquishing jurisdiction.

Statement of the Facts & Course of Proceedings

In 2011, Patty Maxim pled guilty to possession of methamphetamine, was sentenced to a suspended unified term of five years, with one year fixed, and was placed on probation for a five-year period. (R., p.198.) Nearly three years later, a counsellor conducting a GAIN I assessment noted that Ms. Maxim appeared to be extremely emotional and delusional, believing that people had been breaking into her

home and remodeling it while she slept, and that her son had been abducted by pornographers she had turned into the police. (R., p.40.) The State filed a motion to revoke Ms. Maxim's probation alleging that she violated the terms of her probation by being arrested for trespassing, using methamphetamine and marijuana, being discharged from treatment due to her inability to participate due to her instability, and violating curfew. (R., pp.15-40.) Ms. Maxim admitted to violating her probation by using marijuana and methamphetamine and the State dismissed the remaining allegations. (Tr., p.4, L.7 – p.11, L.13.)

Prior to the disposition hearing, Ms. Maxim's father passed away and she became more unstable. (R., pp.70-71.) Her trial counsel filed a motion for a competency evaluation pursuant to I.C. § 18-211. (R., pp.107-117.) Although the district court initially denied the request, the court ultimately granted Ms. Maxim's counsel's renewed request when the author of a I.C. § 19-2522 mental health evaluation opined that Ms. Maxim was suffering from an unspecified schizophrenic or psychotic disorder, and that it was highly unlikely that she could assist in her own defense. (R., pp.118-135.) After being treated at State Hospital South, Ms. Maxim's competence was deemed restored, a disposition hearing was held, and the district court revoked Ms. Maxim's probation, executed her sentence, and retained jurisdiction. (R., pp.145, 155-162; Tr., p.22, L.7 – p.29, L.1.) Although Department of Correction personnel recommended that Ms. Maxim be placed on probation, the district court ultimately relinquished jurisdiction. (R., pp.198-202; Confidential Ex., pp.13-33.) Ms. Maxim filed a timely Notice of Appeal. (R., pp.203-207.)

ISSUE

Did the district court abuse its discretion when it relinquished jurisdiction in light of the mitigating factors that exist in this case?

ARGUMENT

The District Court Abused Its Discretion When It Relinquished Jurisdiction In Light Of The Mitigating Factors That Exist In This Case

Ms. Maxim asserts that the district court abused its discretion when it relinquished jurisdiction in her case. “The decision to relinquish jurisdiction or grant probation is committed to the district judge’s discretion.” *State v. Coassolo*, 136 Idaho 138, 143 (2001) (citation omitted). The governing criteria or objectives of criminal punishment are: (1) protection of society; (2) deterrence of the individual and the public generally; (3) the possibility of rehabilitation; and (4) punishment or retribution for wrongdoing. *State v. Jackson*, 130 Idaho 293, 294 (1997) (citation omitted).

Ms. Maxim had been successful on probation for a period of three years prior to suffering from an apparent mental breakdown. Dr. Nels Sather, Ph.D., could not complete an I.C. § 19-2522 mental health evaluation “due to Ms. Maxim’s psychosis, persecutory delusions, and disorganized thinking[.]” (Confidential Ex., p.8.) Dr. Sather and Dr. Mark Edlund both agreed that Ms. Maxim’s psychosis exists independently from her drug use. (Confidential Ex., p.11.) Despite her mental health problems and the need for “corrective actions” at times, IDOC staff noted that Ms. Maxim engaged in her programming, and recommended that she be placed on probation. (Confidential Ex., pp.13-33.) Ms. Maxim realized that “life circumstances became too overwhelming for her to cope with and [she] turned to substance abuse,” but she “plans to utilize mental

health services to develop a therapeutic relationship with a counselor to further cope with loss issues.” (R., p.18.) IDOC staff noted,

[T]hrough all the chaos she did have a successful completion of her rider and displays [the] ability to follow successfully the expectations of probation. It is also recommended that Ms. Maxim attend mental health treatment along with grief and loss counselling once in the community.

(Confidential Ex., p.17.) Idaho Courts recognize that substance abuse and mental illness are factors that should be considered in mitigation. See *State v. Nice*, 103 Idaho 89, 91 (1982); *Hollon v. State*, 132 Idaho 573, 581 (1999). In light of the relatively minor nature of her original crime (possession of a controlled substance), the three years of success she had on probation before her mental illness and life circumstances led to her relapsing, and the success she had on her rider, Ms. Maxim asserts that the district court abused its discretion by relinquishing jurisdiction.

CONCLUSION

Ms. Maxim respectfully requests that this Court vacate the order relinquishing jurisdiction and remand her case to the district court with instructions that she be placed on probation.

DATED this 22nd day of July, 2016.

_____/s/_____
JASON C. PINTLER
Deputy State Appellate Public Defender

CERTIFICATE OF MAILING

I HEREBY CERTIFY that on this 22nd day of July, 2016, I served a true and correct copy of the foregoing APPELLANT'S BRIEF, by causing to be placed a copy thereof in the U.S. Mail, addressed to:

PATTY ANN MAXIM
INMATE #21820
PWCC
1451 FORE ROAD
POCATELLO ID 83205

JOHN K BUTLER
DISTRICT COURT JUDGE
E-MAILED BRIEF

STEVEN MCRAE
ATTORNEY AT LAW
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CRIMINAL DIVISION
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_____/s/_____
EVAN A. SMITH
Administrative Assistant

JCP/eas